

### **REMARKS**

Claims 15, 21-26, and 44-50 are pending in the instant application. Claims 48-50 have been canceled in the present Amendment. Applicants acknowledge that claims 15, 21-26, and 44-47 are allowed and that rejections of record not mentioned in the instant office action have been withdrawn. Upon entry of this Amendment claims 15, 21-26, and 44-47 will be pending.

Amendment and/or cancellation of the claims is not to be construed as acquiescence to any of the objections/rejections set forth in the instant Office Action or any previous Office Action, and was done solely to expedite prosecution of the application. Applicants submit that claims were not added or amended during the prosecution of the instant application for reasons related to patentability. Applicants reserve the right to pursue the claims, as originally filed, or similar claims in this or one or more subsequent patent applications.

#### ***Claim Rejections – 35 U.S.C. §112, first paragraph***

Claims 48-50 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. In particular the Examiner states that

The application discloses plasmids that are encompassed by the definitions for **biological material** set forth in 37 C.F.R. 1.801. Because it is apparent that this biological material is essential for practicing the claimed invention, it must be obtainable by a reproducible method set forth in the specification or otherwise be known and readily available to the public as detailed in 37 C.F.R. 1.801 through 1.809.<sup>1</sup>

Without acquiescing to this rejection and solely in an effort to further prosecution, Applicant has cancelled claims 48-50, thereby rendering the rejection, as it pertains to these claims, moot. Applicant, therefore, respectfully requests withdrawal of the rejection of claims 48-50 under 35 U.S.C. §112, first paragraph, and favorable reconsideration.

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<sup>1</sup> Page 2, last paragraph of the Office Action dated November 28, 2007.

**CONCLUSION**

In view of the foregoing entry of the amendments and remarks presented, favorable reconsideration and withdrawal of the rejections and allowance of this application with the pending claims are respectfully requested. If a telephone conversation with the Applicant's attorney would expedite prosecution of the above-identified application, the Examiner is invited to call the undersigned at (617) 227-7400.

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Respectfully submitted,

Electronic signature: /Megan E. Williams/

Megan E. Williams

Registration No.: 43,270

LAHIVE & COCKFIELD, LLP

One Post Office Square

Boston, Massachusetts 02109-2127

(617) 227-7400

(617) 742-4214 (Fax)

Attorney/Agent For Applicant